

## § 1.311

a Saturday, Sunday nor a Federal holiday.

(c) If a defeated party to an interference has taken an appeal to the U.S. Court of Appeals for the Federal Circuit and an adverse party has filed notice under 35 U.S.C. 141 electing to have all further proceedings conducted under 35 U.S.C. 146 (§1.303(c)), the time for filing a civil action thereafter is specified in 35 U.S.C. 141. The time for filing a cross-action expires 14 days after service of the summons and complaint.

[54 FR 29553, July 13, 1989, as amended at 58 FR 54502, Oct. 22, 1993]

### ALLOWANCE AND ISSUE OF PATENT

#### § 1.311 Notice of allowance.

(a) If, on examination, it shall appear that the applicant is entitled to a patent under the law, a notice of allowance will be sent to applicant at the correspondence address indicated in § 1.33, calling for the payment of a specified sum constituting the issue fee (§1.18), which shall be paid within 3 months from the date of the mailing of the notice of allowance.

(b) An authorization to charge the issue fee (§1.18) to a deposit account may be filed in an individual application, either before or after mailing of the notice of allowance. Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of the notice of allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance.

(35 U.S.C. 6; 15 U.S.C. 1113, 1123)

[47 FR 41279, Sept. 17, 1982]

#### § 1.312 Amendments after allowance.

(a) No amendment may be made as a matter of right in an application after the mailing of the notice of allowance. Any amendment pursuant to this paragraph filed before the payment of the issue fee may be entered on the recommendation of the primary examiner, approved by the Commissioner, without withdrawing the case from issue.

(b) Any amendment pursuant to paragraph (a) of this section filed after the date the issue fee is paid must be

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accompanied by a petition including the fee set forth in §1.17(i) and a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.

(35 U.S.C. 6; 15 U.S.C. 1113, 1123)

[47 FR 41280, Sept. 17, 1982, as amended at 58 FR 54510, Oct. 22, 1993; 60 FR 20227, Apr. 25, 1995]

#### § 1.313 Withdrawal from issue.

(a) Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. Any such petition by the applicant must include a showing of good and sufficient reasons why withdrawal of the application is necessary and, if the reason for the withdrawal is not the fault of the Office, must be accompanied by the fee set forth in §1.17(i). If the application is withdrawn from issue, a new notice of allowance will be sent if the application is again allowed. Any amendment accompanying a petition to withdraw an application from issue must comply with the requirements of §1.312.

(b) When the issue fee has been paid, the application will not be withdrawn from issue for any reason except:

(1) A mistake on the part of the Office;

(2) A violation of §1.56 or illegality in the application;

(3) Unpatentability of one or more claims;

(4) For interference; or

(5) For abandonment to permit consideration of an information disclosure statement under §1.97 in a continuing application.

(35 U.S.C. 6; 15 U.S.C. 1113, 1123)

[47 FR 41280, Sept. 17, 1982, as amended at 57 FR 2035, Jan. 17, 1992; 60 FR 20227, Apr. 25, 1995]

#### § 1.314 Issuance of patent.

If payment of the issue fee is timely made, the patent will issue in regular course unless the application is withdrawn from issue (§1.313), or issuance of the patent is deferred. Any petition by the applicant requesting a deferral of the issuance of a patent must be accompanied by the fee set forth in §1.17(i) and must include a showing of good and sufficient reasons why it is